

JUSTICE MUKHERJEE COMMISSION OF INQUIRY

B-BLOCK, 3RD FLOOR
11/A, MIRZA GHALIB STREET
CALCUTTA - 700 087

File No. :

PAGES 1 TO 46 CORR

Keep
[Signature]
16/12/15

Subject :

Year :





Monoj Kumar Mukherjee

Chairman

Justice Mukherjee Commission of Inquiry

For inquiry into the alleged disappearance of

Netaji Subhas Chandra Bose

'B' Block (3rd floor), 11/A Mirza Ghalib Street,
Calcutta 700 087

Office ☎ : 033-216-2835, 2766/68

Fax : 033-216-2765

e-mail : jmcinscb@cal3.vsnl.net.in

D.O. NO. JMCI/Chairman's Correspondence/2000-01/71/523

Dated the 16th February 2001

Dear *Sri Panja*,

Apropos my telephonic talk with you, I am sending per bearer of this letter xerox copies of the Orders and Proceedings of the Commission and also of the relevant correspondence relating to your Ministry. I would request you to kindly look into the matter personally so that the Commission may have access to all the documents and records referred to in the correspondence as well as the Orders and Proceedings of the Commission. To expedite matter, I would request you to kindly pursue the request made in our letter No. JMCI/Doc(For)/99-2000/56/490 dated 31.01.2001 (Pages 36&35).

I would also draw your attention to the list of Japanese witnesses annexed to this Commission's letter No. Overseas/Witness/2000-2001/70/513 dated 7.2.2001 addressed to the Secretary of your Ministry (Page 40 read with pages 37-39) and to request you to take appropriate necessary action to enable the Commission to examine those Japanese witnesses out of the aforesaid list who are still living.

An early action on your part will be highly appreciated.

With best wishes,

Yours sincerely,

M.K. Mukherjee
(M.K. Mukherjee)

Sri A.K. Panja

Hon'ble Minister of State

Ministry of External Affairs

Government of India

South Block

New Delhi – 110 001

Enclo: 46 Pages [Pages 1,2,2(A) and
3 to 44 and Index (Page 45)]

I N D E X

<u>S u b j e c t</u>	<u>Page Nos.</u>
1. Xerox copies of orders/directions pertaining to different proceedings of Justice Mukherjee Commission of Inquiry	.. 1-2, 2A, 3-29
2. Xerox copies of some important correspondence concerning study of relevant declassified files/ records lying in the British Library in London and examination of relevant witnesses like, Lord Peter Archer, Lord Malcon Rifkind (former Foreign Secretary of the British Parliament) and Colonel Hugh Toye in London by the Commission in London	.. 30 - 36
3. Xerox copy of the letter dated February 7, 2001 of the Commission addressed to the Secretary, Ministry of External Affairs, Government of India requesting for furnishing the present address of each of the witnesses who were examined before Shah Nawaz Khan Committee of Inquiry and Justice Khosla Commission of Inquiry in Japan and are still living including that of Dr. Taneyoshi Yoshimi to enable the Commission to prepare a programme for examination of all the available witnesses in Japan.	.. 37 - 40
4. Xerox copy of the letter dated 06.02.2001 of the Commission addressed to the Secretary, Ministry of External Affairs, Government of India with a request to kindly persuade the Government of Russian Union as also the Governments of the States which were previously within the remaining territorial limits erstwhile USSR so that the archival documents concerning Netaji Subhas Chandra Bose/I.N.A. lying in their Archives would be scrutinized by/or on behalf of the Commission and certified Photo copies or Micro Films/Microfiches of the relevant documents could be taken by the Commission immediately.	.. 43 - 44
5. The Commission's observations dated 31.08.2000 : "In spite of earlier directions of the Commission contained in the orders of the Commission dated March 23, 2000 and June 13, 2000, the complete original records of the entire proceedings of Shah Nawaz Khan Committee of Inquiry including the evidence recorded by and the documents produced before the said Committee, have not been sent."	.. 8
6. Xerox copies of the letters dated 19.07.2000 and 15.01.2001 of the Commission showing some documents pertaining to Shah Nawaz Khan Committee received by the Commission from the Ministry of External Affairs so far.	.. 41 - 42
7. Commission's directives dt. 23.03.2000 for production of U.O.Notes/records to or from Md.Yunus, the then Under Secretary, Ministry of External Affairs..	4

44

REGISTERED WITH A/D.

DOC(FOR)/99-2000/56/503

6.2.2001

From : Shri P.K. Sengupta, WBHJS (Retd.)
Secretary


To : The Secretary
Ministry of External Affairs,
Government of India, South Block,
New Delhi - 110001.

Sub : Access of the Commission to
peruse relevant documents
concerning Netaji Subhas Chandra
Bose/Indian National Army lying
in different Archives of the
Russian Union as also the Archives
within the residual territory
of the erstwhile U.S.S.R.

Sir,

I am directed by the Hon'ble Chairman of the Commission to request you to kindly persuade the Government of Russian Union as also the Governments of the States which were previously within the remaining territorial limits of the erstwhile U.S.S.R. so that the archival documents concerning Netaji Subhas Chandra Bose/Indian National Army, if any, lying in their Archives as mentioned in the affidavit dated 08.06.2000 of Dr. (Mrs.) Purabi Roy as also referred to by her in her deposition on oath/affirmation before the Commission on 22.12.2000 could be scrutinized by and/or on behalf of the Commission and certified photo-copies or micro-films/microfiches of the relevant documents could be taken by the Commission immediately. A list of the said Archives is attached herewith for your kind perusal and favour of taking necessary action.

Yours faithfully,


(P.K. Sengupta)
Secretary

Enclo : As stated above.

Names of Archives in the Soviet Union as also in the residual territory of erstwhile U.S.S.R. mentioned by Dr. (Mrs.) Purabi Roy before the Commission :

1. State Archive of the Russian Federation
 2. Ministry of External Affairs
 3. Russian State Military Historical Archive
 4. Russian State Library manuscript department
 5. Russian Centre for conservation and study of Records for modern History
 6. Former NKGB-KGB present FSB archive
 7. President's archive
 8. Stalin's archive
 9. Archives of the Far East of Russian Federation
 10. Archives in Omsk
 11. Military archives of Russian Ministry of Defence at Paddolsk
 12. All the archives of St. Petersburg remained totally untouched.
 13. Archives in Irkhutsk
 14. Personal archive of E. Ya. Luisternik
-

42

Meeting-Proceedings (Follow Up)/
48/469.

15.01.2001.

From : Shri M. Roy, IAS (Retd.),
Officer on Special Duty

To : Shri Jayant Prasad,
Joint Secretary (AMS & CNV),
Ministry of External Affairs,
South Block,
New Delhi-110001.

Ref : Your D.O. No.25/4/NGO-Vol.V.
dated January 5, 2001.

S i r,

I am directed to acknowledge receipt of
(1) File No.14(13)/FEA/56 (Part-A) - Netaji Inquiry
Committee Report (Evidence of Witnesses) - 1956;
and
(2) File No.14(13)/FEA/56 (Part-B) - Netaji Inquiry
Committee Report (Evidence of Witnesses) - 1956
(Report from the Japanese Government);
which are under scrutiny and to state that the said
documents would be returned to your Ministry when
done with.

Yours faithfully,

(M. Roy) 15.01.2001
Officer on Special Duty

c/c

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087

Phone:
216-2765-68 & 216-2835

Fax:
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e-mail
jmcinscb@cal3.vsnl.net.in

41

No. JMCI/ Meeting-Proceedings (Follow Up)/Calcutta, dated, the 19.07.2000.
48(Vol.II)/167.

From : Shri P.K. Sengupta, WBHJS (Retd.),
Secretary

To : Shri Jayant Prasad,
Joint Secretary (CNV),
Ministry of External Affairs, South Block,
Government of India,
New Delhi-110001.

S i r,

With reference to your letter No.25/4/NGO-Vol.V dated June 26, 2000, I am to acknowledge the receipt of File No.C/551/5/72-JP.Pt.III- Netaji Enquiry Commission under the Chairmanship of Minister Shri Shah Nawaz Khan, 1956 which appears to contain the following papers :-

- (1) One letter bearing No.M(S)/3/73 dated 12th September, 1973 of Shri R.N. Mehrotra, Addl. Private Secretary to Ministry of Supply, Government of India, addressed to Shri V.V. Paranjpe, Joint Secretary, Ministry of External Affairs, Government of India.
- (2) Office copy of D.O. No.C.551/5/72-JP(II) dated September 15, 1973 of Shri V.K. Nambiar, Under Secretary (FE) addressed to Shri Asok Gupta, Under Secretary (Pol.), Ministry of Home Affairs, New Delhi.
- (3) D.O. No.24/16/73-Poll.II dated September 24, 1973 of Shri Asok Gupta, Under Secretary, Ministry of Home Affairs, Government of India, addressed to Shri V.K. Nambiar, Under Secretary (FE), Ministry of External Affairs, New Delhi.
- (4) Office copy of letter No.C.551/5/72-Pt.II dated September 26, 1973 of Shri V.K. Nambiar, Under Secretary (FE) addressed to Shri Dev Raaj Love, PS to Minister of Supply, Nirman Bhawan, New Delhi-11.
- (5) One paper-cutting from Hindustan Standard, Calcutta, dated December 22, 1973.

P.T.O.

35 (CNV) in the letter as well as the enclosure.
26/7/77

40

REGISTERED WITH A/D.

Overseas/Witnesses/2000-01/70/
513.

7th February'2001.

From : Shri P.K.Sengupta, WBHJS (Retd.),
Secretary.

To : The Secretary,
Ministry of External Affairs,
Government of India,
South Block,
New Delhi- 110001.

Sub: Examination of living Japanese
Witnesses.

S i r,

I am directed to send herewith two lists of Witnesses examined before Shah Nawaz Khan Committee of Inquiry and Justice Khosla Commission of Inquiry in Japan and to request you to kindly obtain the present address of each of the aforesaid Witnesses who are still living including that of Dr. Taneyoshi Yoshimi, through the good offices of the Indian Ambassador in Japan and furnish the same to the Commission as expeditiously as possible to enable it to prepare a programme for examination of all the available Witnesses in Japan.

Enclosures: As stated above.

Yours faithfully,

ph
(P. K. Sengupta)
Secretary

- (6) One printed copy of Netaji Enquiry Committee Report, 1956, published by the Publication Division, Ministry of Information and Broadcasting, Government of India.

I am also to acknowledge the receipt of KW to File C./551/5/72-JP-Pt.-III- Record of evidence tendered before Shah Nawaz Committee-1956 which appears to contain the following :-

- (1) Three unsigned typed pages containing list of witnesses examined by the Committee bearing page Nos. 1 to 3.
- (2) Typed copy of evidence of Shri Nathura Malanga Thevar, M.L.A. which appears to have been recorded and typed at pages bearing Nos. 1 to 8 out of which page 1 is substantially mutilated and torn, page 2 is partly torn, pages 3 to 7 appear to bear some illegible short signature or initial and page 8 purports to bear full signature of Shri Thevar.
- (3) Pages 9 to 415 appear to be unauthenticated typed pages of the evidence of some witnesses purporting to have been recorded by the Committee including some sketches which appear to bear some initials. The page 415 is in mutilated condition.
- (4) It also appears to contain photographs of some witnesses, either singly or jointly with others and those photographs appear to bear no serial numbers.

The aforesaid two files have been received through Shri S.N. Singh, Section Officer of this Commission stationed in New Delhi, on 14th July, 2000 and these will soon be scrutinized at this end. But a glance through them indicates that these do not contain any exhibit or any authenticated copy or even plain copy thereof.

Yours faithfully,

(P. K. Sengupta)
Secretary

No. JMCI/Meeting-Proceedings(Follow-Up)/48 (Vol II)/167/1(1)

Dated : 19.07.2000

Copy forwarded for information to Shri S.N. Singh, Section Officer, J.M.C.I., Ministry of Home Affairs, North Block New Delhi-110001.

(P. K. Sengupta)
Secretary

List of Witnesses examined before Shah Nawaz Khan
Committee of Inquiry at Tokyo, Japan.

(39)

<u>Sl. No.</u>	<u>Name of Witness.</u>	<u>The then Address</u>	<u>Occupation</u>	<u>Date of Deposition.</u>
<u>1.</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
1.	Dr.T.Tasuruta	Furukawa - 173,Tsu City, Mie-Pref.	Army surgeon of Nammon Branch of Taihoku Army Hospital	15.05.1956
2.	Shri Teruo Hachiya	370,Marunouchi Building, Marunouchi,Choyoda-ku, Tokyo	Ex-Minister to the Provi- sional Govt. of Azad Hind.	08.05.1956
3.	Shri Narain Das	64, Rue Fes Tangiers, French Morocco.	Ex-Housing Secretary Indian Independence League,Saigon Branch	08.05.1956
4.	Mr.Keikichi Arai	9, 3-Chome,Honcho, Nihonbashi, Chuo-ku, Tokyo, Japan	Director, The Society of Polymer Science Japan, Lecturer of Tokyo University, Lecturer of Keio University	09.05.1956
5.	Saburo Isoda	Manbamachi,Tanogun, Gumma Prefes.	Ex-Lt.General Chief of Hikari Kikan	10.05.1956 & 12.05.1956
6.	Shri J. Murti	760, Asagaya 1-Chome Suginamiku, Tokyo	Not available	11.05.1956
7.	Ex.Lt.Col.Shiro Nonogaki	Manager, Osaka Branch, Tokyo Kogyo Boyeki Shokai Ltd.,2nd floor, Mistui Bank Senba Branch, 5,2-Chome, Kitya-Kyuhoji-Machi, Higashi-ku, Osaka(Japan)	Vide Col.3	14.05.1956
8.	Mr. Kinji Watanabe	644, Akai-Cho,Nara City, Japan	Ex-Interpreter, Hikari Kikan	14.05.1956
9.	Dr. T.Tasuruta	Furukawa-173, Tsu City, Mie-Pref.	Ex-Medical Officer, Nammon Military Hospital,Taihoku	15.05.1956
10.	Mr. Sato-Kazo	Mynken-Motoyo Sokea, Otachimooru,Tsatomai, Goju Kyu Ban, No.59	Ex-Soldier Grade I 136,Air Unit Taihoku	16.05.1956
11.	Major Taro Kono	No.552, Asagaya-2, Suginamiker, Tokyo	Printing Business in Tokyo	16.05.1956
12.	Col. Sugiya Miyata	1073 Kawanoe City, Japan	Air Staff Officer Taihoku	17.05.1956
13.	Major Takahashi Ihaho	Kanagawa Ken Zushi Shi 607, Japan	Ex-Staff Officer, 15th Japanese Army	17.05.1956

1. Name of Witnesses	2. The then Address	3. Occupation	4. Date
1	2	3	4
14. Col. Muraji Yano	Kagoshimaken Kokubu Shi Muke, 1751	Ex-Chief of 2nd Section, Southern Army H.Q., Saigon.	18.05.1956
15. Major Masaharu Kinoshita	No.1233 Kugahara-cho, Otaku, Tokyo	Ex-Duty Officer Imperial General H.Q., Tokyo	21.05.1956
16. Lt. Col. Morio Takakura	Ex-Staff Officer, Imperial General Head- quarters, Tokyo.	Vide Col.3.	21.05.1956
17. Mr. Tatsuo Hayashida	Fukuoka City, No.1, Haru Yoshi, Street, Japan.	Ex-Second Lt. Administrative Section, Formosan Army H.Q., Taihoku	22.05.1956
18. Dr. Taneyoshi Yoshimi	Takajocho Miyasaki- ken, Japan	Officer-in-charge Nammon Military Hospital, Taihoku.	22.05.1956 & 23.05.1956
19. Shri Satyendranath Sen	No.1, 1-Chome, Nakame- guro, Meguro-ku, Tokyo	Ex-Member of the Territorial Commi- tee of I.I.L. Japan	23.05.1956
20. Ex-Lt. Col. Shibuya Masanari	Miyang-i-ken, Tsutaqon Sanbunni-cho Machi- Oura No.43.	Ex-Air Force Staff Officer, Formosan Army, Taihoku.	24.05.1956
21. Ex-Captain Makato Nakamura (now Makato Yamamoto)	Fukuoka Ken Omta, 25-Yamano Owey Cho, Japan	Ex-Officer-in- Charge Taihoku Aerodrome	25.05.1956
22. Mrs. Makato Yamamoto	Fukuoka Ken-Omta, 25-Yamano Owey Cho, Japan	Ex-Clerk, Communi- cation Bureau, Taihoku Airport	25.05.1956
23. Ex-Major Kenichi Sakai	4 Aza-Miho, Furukawa, Aomori City, Japan	Ex-Battalion Commander-in-Charge Aerodrome Defence, Taihoku	28.05.1956
24. Mr. Kazuo Mitui,	Fukuoka Wakamatsu- shi, 15 Nishi Hata- machi, Japan	Ex-Medical Orderly Taihoku Rikugun. Byoyin Nammon (Military) Hospital, Taihoku.	29.05.1956
25. Mr. Juichi Nakamura	No.27, Nichome Sakura Machi, Fukuoka City, Tokyo	Ex-employee in the Foreign Office Taiwan.	30.05.1956
26. Rev. Kyoei Mochizuki	Head Priest of Renkoji Temple (Netaji Shrine), 130, 2-Chome Koenji Suginami-ku, Tokyo	Vide Col.3.	30.05.1956
27. Ex-General Haruki Isayama	5624 Sajo Machi, Seta Maya-Ku, Tokyo	Ex-Chief of the General Staff Formosan Army.	31.05.1956

37

Sl. No.	Name of Witnesses	The then Address	Occupation	Date
1	2	3	4	5
28.	Rev.Hotta Hidemeru	Priest of Higashi Honganji Temple, No.3113, Shobata, Saori-cho, Amagun, Aichi-Ken, Tokyo	Vide Col.3	31.05.1956
29.	Mr. M. Miyoshi	36, Satsuki Cho, Fukushima Shi, Fukushima Ken, Japan	Ex-Medical Orderly, Rikugun Byoin, Taihoku Military Hospital, Taihoku.	01.06.1956
30.	Ex-Major S. Nagatomo	Miyazaki-shi, 2828, Nakamura Machi, Japan	Ex-staff Officer, Taiwan Army H.Q. at Taiwan.	
31.	Mr.Naokichi Kitazawa	Member of the House of Representatives, Tokyo	Ex-Deputy to the Japanese Ambassador at Rangoon.	02.06.1956
32.	Mr. Koji Asada	2826-2 Chome, Hom Machi Koku Bunji, Tokyo	Ex-Diplomatic Attache to the Govt. of Burma.	02.06.1956
33.	Col. J.G.Figgess	Military Attache, British Embassy in Tokyo	Ex-Staff Officer to Lt. General Gairdner, then Personal Representative of the Prime Minister of the U.K. to General Mac Arthur.	05.06.1956

JMCI/DOC (FOR)/99-2000/56/490.

31.01.2001.

From : Shri P.K. Sengupta, WBHJS (Retd.),
Secretary

To : Secretary, Ministry of External Affairs,
Government of India, South Block,
New Delhi-110001.

Ref : This office letter No. JMCK/DOC (FOR)/
99-2000/56/310 dated November 1, 2000
and D.O. letter No. 25/4/MIO-Vol.V.
dated November 6, 2000 of the Joint
Secretary (CWV), Ministry of External
Affairs, addressed to the Director
General of Archives.

S i r,

With reference to the above, I am directed to state that the Hon'ble Chairman of the Commission has desired to visit U.K. in the last week of April, 2001 and remain present during the period of study of the declassified files/records lying in the British Library in London to be made by the Commission jointly with the National Archives of India.

He has further desired to examine there some witnesses like, Lord Peter Archer, Lord Malcom Rifkind (former Foreign Secretary of the British Parliament), and Colonel Hugh Toye who, from the affidavits filed and evidence given on oath/affirmation by Dr. (Mrs.) Purabi Roy before the Commission appear to be competent witnesses, besides other local witnesses, if any, who may show their interest to depose before the Commission in response to the public notice to be issued by the Commission from London for the purpose of such hearing.

I am further directed to state that in the interest of economy the Hon'ble Chairman has desired that only the Secretary of the Commission, Shri P.K. Sengupta, will accompany him in anticipation that the required personnel (like, Stenographers, Assistants, and other supporting personnel) and the equipments (like, tape-recorders, type-writers, etc.) for the purpose of the proposed hearing would be provided by the office of High Commissioner of India in London and to request you to advise the High Commission of India in London

contd...P.2.

25

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accordingly as also to take necessary action comprehensively so that the Commission can smoothly travel to U.K., inspect the declassified documents in the British Library, London, record deposition of relevant witnesses there with proper public notice and come back to India on completion of the tour which is likely to be for a period of three or four weeks.

An early reply is solicited.

Yours faithfully,

ph
(P. K. Sengupta)
Secretary

No. JMCI/DOC (FOR)/99-2000/56/490(2) Dated : 31.01.2001.

- (1) Copy forwarded to the Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi-110001, for information and favour of taking necessary action. This has reference to our letter No. JMCI/DOC (FOR)/99-2000/56/233 dated August 28, 2000 and our endorsement No. JMCI/DOC (FOR)/99-2000/56/247 dated September 11, 2000.
- (2) Copy forwarded to Dr. Sukumar Sarkar, Director General of Archives, Government of India, Janpath, New Delhi-110001. This has reference to his D.O. F.No.25-2(9)/2000.CC. dated December 5, 2000.

ph
(P. K. Sengupta)
Secretary

xerox copy

to file JMCI/DOC(FOR)/99-2000/56(K/W)

राष्ट्रीय अभिलेख
rams ARCHEION



DR. SUKUMAR SARKAR
Director General of Archives
Govt. of India
Tele No 3383436
Fax 0091-11-3384127

राष्ट्रीय अभिलेखागार
भारत सरकार

जनपथ, नई दिल्ली - ११० ००१
NATIONAL ARCHIVES OF INDIA
JANPATH, NEW DELHI - 110 001

Dated the - 5 DEC 2000

D.O.F.No.25-2(9)/2000.CC.

Dear Shri Sengupta,

Kindly refer to your letter no.JMCI/DOC/FCR/99-2000/56/310, dated 1.11.2000, addressed to Sh. Jayant Prasad, Joint Secretary, Ministry of External Affairs, copy endorsed to National Archives of India, regarding the proposed visit by a team of officials to the British Library, London to examine records connected with Netaji.

In this connection, I would request you to kindly advise us about the views of the Commission in respect of the likely dates of visit so that we may be able to seek administrative approval of our parent Ministry of Tourism & Culture for the deputation of National Archives Official. You are also requested to take up the matter for deputation of other Officials from the Commission and other Institutions in connection with the travel and other expenses. National Archives has already offered to meet the cost of microfilm copies of the selected documents from British Library, London after obtaining necessary expenditure sanction from Department of Culture, Government of India.

An early reply is solicited please; to enable us to proceed further.

With regards,

Yours sincerely,

(S.Sarkar)

Shri P.K. Sengupta,
Secretary,
Justice Mukherjee Commission of Inquiry,
'B' Block,
Third Floor,
11/A, Mirza Ghalib Street,
Calcutta - 700087.



Jayant Prasad
Joint Secretary(CNV)
Tel:301-1357 & Fax: 379-2285

विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI



23/10/2000
October 17, 2000

No.25/4/NGO-Vol.V

Dear Shri Sengupta,

This is further to our letter of even number dated September 18, 2000 regarding the de-classified British Government records that might have some bearing on the mandate of the Commission.

2. At our behest, our High Commission had promptly written to British Foreign Office in the matter. The Foreign Office, in turn, contacted the Head of the Oriental India Office Library Collections at the British Library. The Head of the India Office Library has conveyed that he would welcome a visit from the National Archives of India and/or Justice Mukherjee Commission of Inquiry to examine the records. The High Commission has further been informed that these files have additionally been transferred to microfiche, which can be purchased should there be a further need to study the information back in India. We are now inquiring about the purchase price of the microfiche records

3. Meanwhile, the High Commission also received a letter from the Oriental and India Office Collections of the British Library regarding the preparations that will be required to ensure that the visit by the Justice Mukherjee will be successful. I am enclosing a self-explanatory copy of this letter.

4. We are now awaiting the response of the Commission to the suggestions made by us for an *in situ* examination of the newly available declassified British records.

With best regards

Yours sincerely,

Jayant Prasad

✓ Shri P.K.Sengupta, WBHJS(Retd.)
Secretary
Justice Mukherji Commission of Inquiry
Calcutta.

CC : Shri Nareshwar Dayal, High Commissioner of India, London.

THE BRITISH LIBRARY

32417

Mr S K Mandal
The High Commission of India
India House
Aldwych
London
WC2B 4NA

ORIENTAL AND INDIA OFFICE COLLECTIONS

96 EUSTON ROAD
LONDON NW1 2DB 7840
Telephone 020 7412
Fax 020 7412 7641/7858
E-mail oioe-enquiries@bl.uk

our ref OIOC2-109-96-26
your ref
date 21 September 2000

Dear Mr Mandal

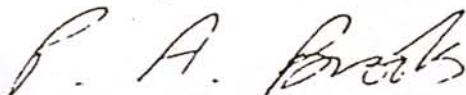
Following a telephone conversation with Miss Travis, I am writing to explain the preparations that will be necessary to ensure that the visit by the Justice Mukherji Commission will be successful. I have discussed the visit with Graham Shaw and we are agreed that they will find it most convenient to obtain British Library readers' passes as they will then be able to use our reading room. This will give them the flexibility to come and go as they please within our opening hours of 9-30 to 17-00 Tuesday to Saturday and 10-00 to 17-00 on Mondays.

If you can let me know the names of the members of the Commission who will be visiting, I can authorise the application forms in advance. However, the individual members will need to fill in the rest of the form on arrival and go to the Reader Admissions Office to be photographed and have the pass produced. If you can let me know the date and time of their arrival, either I or a colleague will meet them and help them through the admissions process.

You may be interested to know that the records of the Indian Political Intelligence have just been filmed and will shortly be available as a micro-fiche publication. It is not necessary to buy the whole series – one can buy only those of specific interest.

I shall be absent for most of this week and next. On my return I shall be happy to cooperate in making the visit go smoothly.

Yours sincerely



Mrs P A Brook
Head of India Office Records
E-mail: penny.brook@bl.uk



21/9/2000
TELEFAX

विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

31

Jayant Prasad
Joint Secretary (CNV)
Tel. No.301 1357
Fax No.379 2285



No. 25/4/NGO/Vol.V

September 18, 2000

Dear Shri Sengupta,

I am writing apropos your letter of August 28, 2000 regarding the declassified British Government records (comprising some 700 files) that might have some bearing on the mandate of the Commission on which Justice Mukherjee had been in touch directly with our High Commissioner in London, Shri Nareshwar Dayal. I regret it has taken us a while to respond to your letters since I had been continuously on tour abroad.

Our High Commission is pursuing with the British Foreign Office the possibility of retrieving from the British authorities any available documentation pertaining to Netaji Subhas Chandra Bose that may be contained in the 700 unpublished files originating in the India Office's Public and Judicial Department in London, which are now public and have been placed with the India Office Records, Oriental and India Office Collections, London.

Meanwhile, the Ministry of External Affairs recommends that the Commission should arrange to visit London for an in-situ examination of the files to find out whether or not they contain any material relevant to the work of the Commission. Alternately, they could mandate the Director, National Archives of India, to undertake this task on behalf of the Commission. Our High Commissioner in London has been consulted on this and concurs fully in this suggestion.

With warm regards,

Yours sincerely,

Jayant Prasad

Shri P.K. Sengupta
Secretary, Justice Mukherjee Commission of Enquiry
Calcutta

30

D.O. No. JMCI/DIC/FOR/99-2000/56/125.

June 12, 2000

Dear Sri Dayal,

You are possibly aware that Government of India has appointed a One-Member Commission of Inquiry with me as its Chairman to inquire into all the facts and circumstances related to disappearance of Netaji Subhas Chandra Bose.

One of the parties participating in the inquiry is headed by Sri Anil Mukherjee, Deputy Speaker of the West Bengal Legislative Assembly. He had, on his own, written a letter to the Deputy High Commissioner, British Deputy High Commission, Calcutta on March 1, 2000 asking, inter-alia, for certain declassified war records from the British Government regarding Netaji Subhas Chandra Bose. In reply thereto, Press & Public Affairs Adviser of the British Deputy High Commission informed Sri Mukherjee that about 700 unpublished files are with the India Office Records, Oriental and India Office Collections, London and those files can be seen by researchers in that office only. A copy of the said letter has been forwarded to my office by Sri Mukherjee.

As I will be in London from 20th to 22nd June, 2000 on a private visit I would like to avail of an opportunity of talking to you over the above matter. It will, therefore, be highly appreciated if you kindly make it convenient to fix a time for that purpose. While in London, I will be staying with my brother Sri Moloy Mukherjee at 81, Templars Avenue, Golders' Green, London, NW 11 (Telephone no. 208-455-8560)

With regards,

Yours sincerely,

K. Mukherjee

Sri Nareshwar Dayal
Hon'ble High Commissioner,
High Commission of India in U.K.

JUSTICE M.K. MUKHERJEE COMMISSION OF INQUIRY

Proceedings dated 17.01.2001 (Seventh)

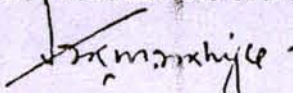
Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

Proceedings

17th January 2001

In terms of the order passed in the last sitting of the Commission on 22.12.2000, the two applications (filed through affidavits) by Shri Kamal Pande, Secretary to the Government of India, Ministry of Home Affairs, and Shri Jarnail Singh, a Joint Secretary in the Prime Minister's Office, claiming privilege in respect of the contents of the documents referred to in their respective applications have been taken up for further hearing.

At the commencement of the hearing Mr. Paul, has submitted that lest the Commission holds that Shri Jarnail Singh being a Joint Secretary is not competent to claim privilege in view of the provisions of Sections 123 of the Evidence Act, he may be permitted to file a supplementary affidavit affirmed by Shri N.K. Singh, Secretary in the Prime Minister's office fully supporting the claim of Shri Jarnail Singh within a day or two. The prayer has been allowed. Thereafter the learned Counsel for the parties, including the learned Counsel for Government of India, have been heard at length on the claim of privilege. Necessary Orders in this regard will be passed in due course.


(M.K. Mukherjee)
Chairman.

ORDER

25.1.2001

Sri Kamal Pande, Secretary to the Government of India, Ministry of Home Affairs, has filed an application through an affidavit claiming privilege in respect of the following files pertaining to Netaji Subhas Chandra Bose :-

- i) Bringing the ashes of Netaji kept in Renkoji Temple in Tokyo, Japan to India; and
- ii) Posthumous announcement of award of 'Bharat Ratna' to Netaji ;

The privilege has been claimed under Sections 123 and 124 of the Evidence Act and Article 74 (2) of the Constitution of India.

Similar claim under Sections 123 and 124 of the Evidence Act has been made in another affidavit by Sri Jarnail Singh, a Joint Secretary in the Prime Minister's Office, in respect of documents dealing with the following issues :-

- i) Controversies regarding Netaji's death and bringing his ashes in India from Japan ; and
- ii) Identity of Mrs. Anita Puff, daughter of Netaji Subhas Chandra Bose.

Later on, with the permission of the Commission Sri N.K.Singh, Secretary in the Prime Minister's

Office has filed a supplementary affidavit supporting the claim of Sri Jarnail Singh. The learned Counsel for the deponents before the Commission raised a threshold question as to the maintainability of the claim on the grounds that none of the affidavits specifies the documents in respect of which privilege was being claimed nor do they indicate the reasons why it is apprehended that their disclosure would lead to injury to public interest. To bring home their contentions they have taken me through the averments made in the affidavits and relied on various judgments of the Supreme Court in this regard. Particular reference has been made to the Constitution Bench judgments of the Supreme Court in State of Punjab vs. S.S. Singh, AIR 1961 S.C. 493 wherein Gajendragadkar J. (as His Lordship then was), speaking for the majority, observed as under :-

" The sole and the only test which should determine the decision of the head of the department is injury to public interest and nothing else. Since it is not unlikely that extraneous and collateral purposes may operate in the mind of the person claiming the privilege it is necessary to lay down certain rules in respect of the manner in which the privilege should be claimed. We think that in such cases the privilege should be claimed generally by the Minister in charge who is the political head of the department concerned; if not, the Secretary of the department who is the departmental head should make the claim; and the claim should always be made in the form of an affidavit. When the affidavit is made by the Secretary the Court may, in a proper case, require an affidavit of the Minister himself. The affidavit should show that each document in question has

been carefully read and considered, and the person making the affidavit is satisfied that its disclosure would lead to public injury. If there are a series of documents included in a file it should appear from the affidavit that each one of the documents, whose disclosure is objected to, has been duly considered by the authority concerned. The affidavit should also indicate briefly within permissible limits the reason why it is apprehended that their disclosure would lead to injury to public interest."(emphasis supplied).

Reliance was also placed in *Amarchand Butayel vs. Union of India*, AIR 1964 SC 1658 wherein the above quoted principle was reiterated. Lastly, the attention of the Commission was drawn to the following passage from the judgment of Supreme Court in *R.K. Jain vs. Union of India* (1993) 4 SCC page 120.

"It is now settled law that the initial claim for public interest immunity to produce unpublished official records for short "State documents" should be made through an affidavit generally by the Minister concerned, in his absence by the Secretary of the department or head of the department. In the latter case the court may require an affidavit of the Minister himself to be filed. The affidavit should indicate that the documents in question have been carefully read and considered and the deponent has been satisfied, supported by reasons or grounds valid and germane, as to why it is apprehended that public interest would be injured by disclo-

sure of the document summoned or called for.
If the court finds the affidavit unsatisfactory
a further opportunity may be given to file
additional affidavit or he may be summoned for
cross-examination. If the court is satisfied
from the affidavit and the reasons assigned
for withholding production or disclosure, the
Court may pass an appropriate order in that
behalf. " (emphasis supplied)

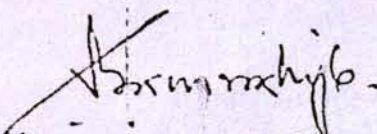
In responding to the above contentions of the
learned Counsel for the deponents, Mr. Pal appearing
for the Union of India submitted that the affidavits
clearly indicate that the privilege has been claimed
in the line of the observations of the Supreme Court
in the above cases and therefore, no exception could
be taken to the same. He, however, fairly submitted
that if the Commission felt that the affidavits were
unsatisfactory, the Secretaries concerned may be given
an opportunity to file additional affidavits, as
observed by Supreme Court in R.K.Jain (Supra).

To find an answer to the above questions
I have carefully gone through the affidavits and files.
Unlike the affidavits filed on behalf of the Prime
Minister's Office wherein not only the documents have
been specifically mentioned but also the notes appea-
ring therein (Annexure I and IA respectively to the
affidavits), in respect of which privilege has been
claimed, the Ministry of Home Affairs have claimed
privilege in respect of the entire contents of their
two files. On perusal thereof, I find that these files
not only contain official notes and correspondences
between the Ministry of Home Affairs, Prime Minister's
Office and other Ministries but also records of Par-
liamentary proceedings, newspaper cuttings, open

letters sent by eminent citizens to the Ministry of Home Affairs and similar other documents. Apparently the latter class of documents cannot answer the description of 'secret' documents nor do they assume such a character simply by their inclusion in files marked "TOP SECRET". In that context, it was obligatory on the part of the Secretary of Ministry of Home Affairs to specify the documents in respect of which privilege was being claimed. So far as furnishing of the reasons as to why it is apprehended that the disclosure of the documents in the files would lead to injury to public interest is concerned, the only reason that has been given in the affidavit is that disclosure of the records would cause injury to India's relation with some friendly foreign countries. Whether the above reason is appropriate one or not need not be decided at this stage but suffice it to say that the reason is not even available to other documents appearing in the files. In all such circumstances, the Ministry of Home Affairs was also required to indicate the specific reasons for which the contents of the other relevant documents in the file should not be disclosed.

For the foregoing discussion, the Secretary, Ministry of Home Affairs is directed to file a supplementary affidavit regarding their claim of privilege keeping in view the observations made hereinbefore and the principle laid down by the Supreme Court as to the manner in which it is to be claimed. The supplementary affidavit should be filed within a month of communication of this Order. Let a copy of this Order alongwith the files received from the Ministry of Home Affairs be sent for their response.

So far as the affidavits of Prime Minister's Office are concerned, they undoubtedly specify the documents and the notes in respect of which privilege is claimed. As regards the documents pertaining to the identity of Mrs. Anita Puff, daughter of Netaji Subhas Chandra Bose, the same are not relevant to the terms of reference and hence the same may be sent back. The other documents and notes relate to correspondence between the Prime Minister's Office and the Home Ministry; and the same also find place in the files of Ministry of Home Affairs in respect of which privilege has been claimed. In all such circumstances, appropriate Orders regarding the merits of the claim of privilege in respect of those documents will be made on receipt of response of the Ministry of Home Affairs to this Order.


(Monoj Kr. Mukherjee)
Chairman

JUSTICE M.K. MUKHERJEE COMMISSION OF INQUIRY

Proceedings dated 22.12.2000 (Sixth)

Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

A. EXAMINATION OF WITNESSES

December 22, 2000

I. Dr. Purabi Roy (C.W.10), who was examined in part on the last date of hearing (November 23, 2000), has been examined further. In course of her examination she has produced 55 documents in 26 folders along with a list thereof and those documents have been marked Z, Z(a), Z₁, Z₂ to Z₁₆, Z₁₆(a), Z₁₇ to Z₂₆, Z₂₆(a), Z₂₇, Z₂₇(a), Z₂₈ to Z₄₇ and Z₄₈ (three documents collectively) for identification. On conclusion of her examination Shri Jayanta Roy has been examined on oath (C.W.11). Thereafter, Shri V.P. Bhalia, an Under Secretary to the Government of India, Ministry of Home Affairs has been examined (C.W.12). In course of his examination, he has identified the documents referred to in paragraph 3(b)(i) of the order dated September 28, 2000, (papers relating to the Khosla Commission of Inquiry) and proved that those documents have been produced from proper custody. The other witness, Smt. Prava Jagannathan, to whom summons was sent by registered post at the address available on record, is neither present nor has the A/D Card been received. On receipt of the same, appropriate orders will be passed. Till her present correct address is made available, the question of resummoning her does not arise.

II. Shri Samar Guha, who has been cited as a witness in more than one affidavit filed before the Commission, is now seriously ill and bed-ridden. He has, however, expressed his willingness to be examined as a witness at his residence. Accordingly, his examination on commission has been fixed on January 10, 2001 at 1.00 P.M. at his residence at 8/2, Central Park Jadavpur, Calcutta 700 032. The parties/Advocates present, have been intimated about the venue, date and time of his examination.

III. Mr. Keshab Bhattacharya, learned Counsel appearing for the deponents in JMCI/19/2000, filed an application on December 21, 2000 alleging that certain questions put by him to Shri Suman Chattopadhyay (C.W.6), and the answers given by the latter thereto have not been recorded; and he has, accordingly, prayed for incorporating those questions and answers in the deposition of Shri Chattopadhyay. While it is true that Mr. Bhattacharya did put some questions to Shri Chattopadhyay and the latter gave answers, both the questions and the answers were disallowed as irrelevant. The application filed by Mr. Bhattacharya is, therefore, rejected.

B. RE: HEARING ON THE QUESTION OF PRIVILEGE

IV. After completion of the examination of the witnesses present, Mr. Tarakeswar Pal, learned Counsel appearing for the Government of India, starts making his submission in support of the two applications filed by Shri Kamal Pande, Secretary to the Government of India, Ministry of Home Affairs and Shri Jamail Singh, Joint Secretary in the Prime Minister's Office, claiming privilege in respect of the contents of the documents referred to in their respective applications. On the prayer of Mr. Pal, and of the other learned Counsel^{/s}/parties, further hearing on the above question is adjourned till the next sitting of the Commission.

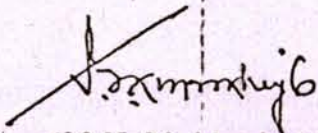
V. In compliance with the order as contained in paragraph 6(ii) of the Proceedings dated November 23, 2000, Shri D.C. Vajpai, Commissioner of Police, Calcutta and Shri A.K. Sen Deputy Inspector General of Police, I.B., West Bengal (since retired), have submitted their explanations. Considering their explanations it is felt that no further action need be taken in the matter.

C. OTHER MATTERS/ORDERS

VI. The attention of the respective Ministries/Offices is once more drawn to the directions contained in paras B.1, B.4, B.5 and B.7 of the order dated November 23, 2000. Last chance is given to the respective Ministries/offices to comply with the same by January 31, 2001, failing which, appropriate legal action will be taken against the officers concerned for wilful non-compliance with the said orders/directions.

D. NEXT HEARING

VII. The next hearing of the Commission will be held on January 17, 2001 at 11.00 A.M. in the Seminar Hall of Mahajati Sadan, Annexe Building, 166, Chittaranjan Avenue, Calcutta - 700 007 which shall be confined to the issue of privilege claimed.


(M.K. Mukherjee)
Chairman.

Proceedings dated 23.11.2000 (Fifth)

Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

A. EXAMINATION OF WITNESSES

November 23 2000

1. Of the witnesses summoned, Shri Suman Chattopadhyay, Shri Anindya Sengupta, Shri Barun Sengupta, Shri Pabitra Ghosh, Dr. Purabi Roy and Shri Jayanta Roy are present. Shri Suman Chattopadhyay, Shri Barun Sengupta, Shri Anindya Sengupta and Shri Pabitra Kumar Ghosh have been duly examined on oath as witness Nos. 6, 7, 8, and 9 respectively and then discharged. Some documents have been admitted into evidence and marked as Exhibits 6, 6a and 6a/1 on admission by the C.W.6, Exhibits 7 to 7w on admission by the C.W.7, Exhibit 8 on admission by C.W.8 and Exhibits 9 to 9m on admission by C.W.9, without any objection by any of the parties. The examination of Dr. Purabi Roy as C.W.10 is now taken up. In her examination she testifies that the statements that she made in her affidavit filed before the Commission are correct. Accordingly, the affidavit filed by her is marked Exhibit 10. However, her examination cannot be concluded as she intends to bring on record a number of documents for which no list is forthcoming and many of which are in Russian language. Dr. Roy is, therefore, asked to file a list of documents and the translated version in English of those written in Russian language, with a supporting affidavit that the translation has been done correctly and truly. To enable her to comply with the above directions, her further examination is deferred till the next hearing and she is asked to appear on that date. The suggestion of some of the parties present that the documents in Russian language be translated by some other translator and not by Dr. Roy, as she figures as an witness, will be considered if and when any genuine complaint is made about the authenticity of the translation. Examination of Sri Jayanta Roy is also deferred as from the affidavit filed by Dr. Roy it appears that he is supposed to corroborate her testimony.

2. The other witness summoned, namely, Smt. Proptha Jagannathan, is not present though summons was duly sent by speedpost to her at her address as furnished to the Commission. Let fresh summons be served

asking her to appear on the next date of hearing. Let summons be also served upon Sri Jayanta Roy to appear on that date.

B. FURTHER ORDERS/DIRECTIONS/OBSERVATIONS

1. The prayer of Smt. Archana Ranjan, Director, Prime Minister's office, seeking 15 days' time to file a consolidated affidavit covering all the points mentioned in the proceedings of the Commission from time to time is allowed. The above office is directed to file the same by 10.12.2000 through an officer not below the rank of a Joint Secretary.
2. In spite of repeated directions, no representative of the Ministry of Home Affairs has yet come to identify the documents referred to in paragraph 3(b)(i) of the order dated September 28, 2000 and prove their authenticity.
3. The application filed by Shri Kamal Pandey, Secretary, Ministry of Home Affairs, Government of India claiming privilege under Sections 123 and 124 of the Evidence Act and Article 74(2) of the Constitution of India in respect of the contents of the files mentioned in paragraph B(ii) of the proceedings dated August 31, 2000 will be taken up for hearing in the next sitting.
4. The documents mentioned in paragraph 3(b)(iii) of the order dated September 28, 2000 have neither been produced nor any explanation offered for such failure.
5. The directions contained in paragraph C(i) of the order dated August 31, 2000 have not been fully complied with, in that, the complete original records of the proceedings of the Shah Nawaz Khan Committee of Inquiry including the evidence recorded and the documents produced before the said Committee have not yet been sent. However, four letters, one paper cutting, one printed copy of the report of the Committee, one partly torn copy of the statement of one Shri Mathura Malanga Thevor, MLA bearing some initials and one full signature purported to be of Shri Thevor, some photographs of witnesses and 407 pages, typed but unauthenticated, purporting to contain statements of some witnesses before the said Committee, were received earlier.

17

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The Ministry of External Affairs have since sent photocopies of the following files.

1. File No. 25/4/NGO – Vol. I
2. File No. 25/4/NGO – Vol. II (LW-KW)
3. File No. 25/4/NGO – Vol. III (LW-Annx)
4. File No. 25/4/NGO – Vol. IV (LW-KW.i)
5. File No. 25/4/NGO – Vol. V (LW-KW I, II & III)
6. File No. 25/13/NGO – 52 (LW-KW)
7. File No. 25/14/NGO – 52
8. File No. 25/15/NGO – 52
9. File No. 25/16/NGO – 53

6(i) On March 23, 2000 the Commission directed the Government of West Bengal to produce all the files relating to Netaji Subhas Chandra Bose which were lying in the custody of the Special Branch, Calcutta Police including file No. 269/45 relating to 'Prisoner/Release – Revised Policy of Government, for the release of Security Prisoners' containing Memo. No. SS 129/SB dated 31st August, 1945 from the Commissioner of Police, Calcutta to H.S.E. Stevens, the then Chief Secretary, Government of Bengal, Express letter No. 1234 dated 25.8.1945 of Bengal Government and confidential note dated 3.9.1945 of D.R. Hardwick, D.I.G., I.B. In purported compliance of the above direction, the Government of West Bengal sent copies of 64 files along with lists thereof and also filed an affidavit dated July 28, 2000 through Shri Aloknath Bhattacharyya, Special Secretary to the Government of West Bengal, Home (Political) Department wherein it is stated, inter alia, as follows :

"8/ That the Government of West Bengal caused a thorough search in the offices of Special Branch, Calcutta Police, Intelligence Branch, West Bengal and State Archives; that there is no such file bearing No. 269/45 regarding "Prisoner/Release-Revised Policy of Government for the release of Security Prisoners" in the records of Calcutta Police; that File No. 269/45 (Prisoners/Release-Revised Policy of Government for the release of Security Prisoners) containing Memo. No. SS.129/SB dated 31st August, 1945 from the Commissioner of

16

Police, Calcutta to H.S.E. Stevens, the then Chief Secretary Govt. of Bengal, express letter No. 1234 dated 25.8.45 of Bengal Government and Confidential note dated 3.9.45 of D.R. Hardwick, D.I.G., I.B. also do not figure in the Index Book of the Intelligence Branch, West Bengal; that there is no record preserved in the custody of State Archives relating to the disappearance of Netaji Subhas Chandra Bose and other papers connected thereto including copy of Bengal Government's express letter No. 1234 dated 25.8.45

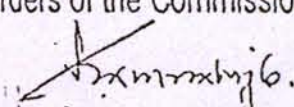
Copies of correspondences of Commissioner of Police, Calcutta, Dy. Inspector General of Police, Intelligence Branch, West Bengal and Director of Archives, Higher Education (State Archives) Deptt. in this connection are annexed herewith as Annexure "A" collectively."

Thereafter, following further direction of the Commission, the Government of West Bengal produced the original Index Books relating to files maintained by the Special and Intelligent Branches of Police. On scrutiny of the said Index Books and the copies of files sent, the Commission directed the Government of West Bengal to produce copies of some more files reference of which was in the Index Books but not sent to the Commission earlier. In compliance with the above direction, the Government of West Bengal sent copies of 13 (thirteen) more files including File No. 269/45 which contained memos and Note referred to hereinbefore.

6(ii) From the above resume of facts, it is manifest that the earlier quoted statements made by Shri Aloknath Bhattacharyya, in his affidavit filed on July 28, 2000 are not at all correct. Since, however, Shri Bhattacharyya claims in his above affidavit that those averments were made on the basis of information received from Shri D.C. Bajpai, Commissioner of Police, Calcutta, and Shri A.K. Sen, Deputy Inspector General of Police, I.B., West Bengal and has, in support thereof, annexed as part of his affidavit the copies of written communications from them in this respect, it is patently clear that the above two responsible senior Police Officers furnished wrong information for onward communication to this Commission. The Commission therefore calls for the explanation of the above two Police Officers for furnishing such wrong information, by the next date of hearing.

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7. Since the observations made by the Commission in Paragraph (e) of its proceedings dated 28.9.2000 have not been given due importance and priority they deserve, the Commission takes serious view of the matter and feels that time is now ripe to consider the question of invoking the powers under the provisions of section 5(4) of the Commission of Inquiry Act, 1952 for recurring non-compliance with the orders/directions of the Commission. In this connection, the attention of the authorities concerned is once more drawn to orders dated June 13, 2000, as quoted in paragraph 3(e) of the proceedings dated September 28, 2000 as also those communicated through various letters sent pursuant to the orders of the Commission.


(N.K. Mukherjee)
Chairman.

September 28, 2000

At the commencement of the hearing it is found that no witness on behalf of the Government of India is present even though in the earlier order dated August 31, 2000 they were asked to produce their witnesses, if any, on the next date of hearing, i.e. today, for their examination before examination of other witnesses. Since, neither any officer of the Government of India nor any Counsel on their behalf is present nor has any communication been received to explain their stand in this regard, the Commission is left with no other alternative but to presume that the Government of India do not intend to examine any witness. With this presumption, the Commission proceeds to examine the two witnesses present.

2. Examination of Witnesses

(a) Sri Nilanjan Bose and Sri Ardhendu Sarkar are examined on oath and cross-examined as witness Nos. 4 and 5 respectively. Xerox copies of a report in Bartaman, a Bengali daily dated March 21, 1999 and of a news item in the Sunday Statesman dated January 22, 1989 are marked as 'Y' and 'Y(1)' for identification, on admission by the witness Nos. 4 and 5 respectively.

(b) Of the other three witnesses summoned to depose today -

(i) Dr. Sisir Kumar Bose sent a letter to the Secretary to the Commission on September 22, 2000 stating, inter-alia, as follows :

"Since the end of World War II in August 1945 till to day I have not received any direct information from him (Netaji) or about him. I have no personal knowledge as to the issues referred to the Commission. I am therefore not competent to depose in this matter.";

(ii) Sri Anindya Sengupta also sent a letter intimating that he was indisposed and as such is unable to be present to-day but has made a request to fix another date for his examination; and

(iii) Shri Suman Chattopadhyaya has not appeared nor sent any communication explaining his failure to appear, even though summons were duly served at his office address by registered post.

(c) Since from the contents of the letters of Dr. Sisir Kumar Bose it appears that no useful purpose will be served by examining him he need not be re-summoned. Let fresh summons be served upon Shri Anindya Sengupta and Shri Suman Chattopadhyaya for their examination before this Commission on the next date of hearing intimating them that if they fail to appear this time as well without any justifiable reason, appropriate legal action may be taken against them for their such failure.

(d) The following persons be also summoned to testify before the Commission on the next date of hearing :

- i) Shri Barun Sengupta, Editor, "Bartaman",
- ii) Shri Pabitra Kumar Ghosh, Journalist, "Bartaman",
- iii) Dr. Purabi Roy, 47C Abdul Halim Lane, Calcutta 700 016,
- iv) Shri Jayanta Roy, Hemanta Basu Bhawan, 49C,
Chittaranjan Avenue, Calcutta 700 012,

and

- v) Smt. Prabha Jagannathan, Correspondent, Formerly of The
Telegraph and now of the Economic Times, 105/7A, S.N.
Banerjee Road, Calcutta 700 013

3. Further orders/directions

On conclusion of the examination of the witnesses, the parties/their representatives who are present have been heard on the status report prepared on September 26, 2000 and circulated amongst them before

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commencement of the hearing today. After such hearing and perusing all the materials received from the Central Government and the State Government since the last date of hearing, the Commission makes the following further orders/directions :-

- a) Even though in paragraph E of the order dated August 31, 2000 there was an express direction that all informations to be furnished in terms thereof must be supported by affidavit of a competent officer not below the rank of a Joint Secretary to the Government of India, the Prime Minister's office has sent an affidavit sworn by an Under Secretary of that office in purported compliance of paragraph A of the said order. The Commission therefore does not take any notice of the contents thereof; and calls upon the said office once more to strictly comply with the orders/directions issued on August 31, 2000.
- b) (i) In compliance of paragraph B(i) of the order dated August 31, 2000, some papers reportedly relating to the Khosla Commission have been sent by the Ministry of Home Affairs and received by the office of the Commission without verifying the contents thereof. In expectation that some representative of the Ministry will be present today to identify those documents and prove their authenticity, the same have been brought to the venue of the Commission's hearing. But, as already mentioned, no one is there to represent the Government of India and for that matter the Ministry concerned.
- (ii) A communication has been received from the Ministry seeking time till November 15, 2000 to produce the papers referred to in paragraph B(ii). The prayer is allowed.
- (iii) Under orders of the Commission, a letter was sent by its Secretary on August 25, 2000 to produce the following documents :

(a)(a) A xerox copy of the letter said to be sent by General Chiang-kai-Sheikh to Pandit Jawaharlal Nehru about an inquiry reportedly made by the Government of Nationalist China at Taipei regarding the alleged plane-crash involving Netaji along with a xerox copy of the said Inquiry Report; and

(b)(b) A xerox copy of the report dated 31st December, 1945 of Shri B.C. Chakravarty (Witness No.168 before Justice Khosla Commission of Inquiry) on alleged air-crash and alleged death of Netaji Subhas Chandra Bose which was counter-signed by Col. Stevenson and sent to the CSDIC as referred to in the published report of the Commission;

but those documents have not yet been produced.

- c) None of the directions contained in para C(i) and (ii) of the abovequoted order has been complied with except that a letter has been received from the Ministry of External Affairs to-day (when the Commission was holding its sitting) wherein it is stated that they are preparing photocopies of the nine top-secret files referred to in paragraph C(ii) of the order dated August 31, 2000.
- d) Shri Alok Nath Bhattacharyya, Special Secretary, Home (Political) Department who is present today has produced some Index Books but no affidavit has been filed in terms of para 'E' of the order dated August 31, 2000. Let the Index Books be kept with the office of the Commission and be not returned without leave of the Commission. The prayer of Shri Bhattacharyya for time to file affidavit is allowed.
- e) It is rather unfortunate that even though as far back as on March 23, 2000, the Commission passed comprehensive orders and directions regarding sending of files and documents to this Commission by the related Ministries/Departments/Offices, the same have not yet been

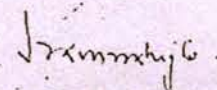
fully complied with. In this connection, the attention of the above authorities is drawn to the following portion of the order dated June 13, 2000 :-

"It is made abundantly clear that in case of failure to comply with the same by the aforesaid date, the Commission may be reluctantly compelled to invoke the provisions of Section 5(4) of the Commission of Inquiry Act, 1952 against the recalcitrant officers of the Government, both Central and State. It is also made clear that since the orders/directions passed in the proceedings by the Commission are in exercise of statutory – and not administrative – powers, no correspondence will henceforth be entertained relating to the compliance thereof. However, in respect of any matter relating to the compliance with the directions/orders of the Commission, the concerned Government may approach the Commission by making formal applications supported by affidavits before the Commission through competent officers, not below the rank of Joint Secretary to the Government of India."

- f) The above orders/directions must be complied with by November 15, 2000.

4. NEXT HEARING

The next hearing of the Commission will be held on November 23, 2000 at 11 A.M. in the Seminar Hall, Annexe Building, Mahajati Sadan, 166 Chittaranjan Avenue, Calcutta 700 007.


(M.K. Mukherjee)
Chairman.

(a)

Proceedings dated 31.08.2000 (Third)
Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

August 31, 2000

After perusal of the files/documents still now made available to the Commission and hearing the parties and/or their representatives present, the following directions are given to the authorities noted below :

A. PRIME MINISTER'S OFFICE/SECRETARIAT

- (i) While sending photocopies of seven files marked as 'Top Secret/Secret' with a forwarding letter No. G-16(4)/2000-NGO dated July 24, 2000 (also marked 'Top Secret/Secret') addressed to the Secretary of the Commission, a Director of the Prime Minister's office, South Block, New Delhi has made the following request :

"It is further requested that while information contained in the 'Top Secret' papers may be made use of by the Commission, in camera, since these are classified as 'Top Secret', they may kindly consider not publishing the same."

Viewed in that context, the above office/secretariat is directed to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents thereof, more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing.

- (ii) The above office will let this Commission know whether any of the files/records relevant to the terms of reference of this Commission has been destroyed and, if so, details thereof and why, when and where they were destroyed and whether copies of the documents contained therein have been kept or maintained.

- (iii) In spite of directions contained in paragraph a(i) read with paragraph (b) of the order of this Commission dated March 23, 2000 read with the order dated June 13, 2000, the above office/Secretariat has not filed any affidavit regarding the availability of files/documents mentioned in the aforesaid paragraph a(i).

B. MINISTRY OF HOME AFFAIRS

- (i) In spite of the directions of the Commission contained in its orders dated March 23, 2000 and June 13, 2000, the complete original records of the entire proceedings of Justice Khosla Commission of Inquiry, including the evidence recorded by and documents produced before the said Commission, have not been sent.
- (ii) In his affidavit dated June 20, 2000, the Director (IS-I) attached to the Ministry of Home Affairs has stated, inter alia, that in their Ministry only the files regarding bringing back of the presumed ashes of Netaji kept in Renkoji Temple in Tokyo in Japan and posthumous announcement of award of 'Bharat Ratna' to Netaji are available, and according to the deponent, those files do not have any direct bearing on the on-going inquiry of the Commission. Notwithstanding the above observation, the Ministry of Home Affairs is directed to submit those files before the Commission immediately.

C. MINISTRY OF EXTERNAL AFFAIRS

- (i) In spite of earlier directions of the Commission contained in the orders of the Commission dated March 23, 2000 and June 13, 2000, the complete original records of the entire proceedings of Shah Nawaz Khan Committee of Inquiry including the evidence recorded by and the documents produced before the said Committee, have not been sent.
- (ii) Along with his letter No. 25/4/NGO-Vol.V dated March 1, 2000 (marked 'Top Secret'), Joint Secretary (CNV) has given a list of some files marked 'Top Secret'. The Ministry is directed to produce the said files in original before the Commission for its inspection and also explain why those files are still being treated as 'Top Secret', more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing.

D. GOVERNMENT OF WEST BENGAL

Secretary to the Home Department, Government of West Bengal, is directed to produce the original Index Books, together with xerox copies thereof, relating to the files detailed in Annexure 'B' to the affidavit dated July 28, 2000 filed by Shri Alok Nath Bhattacharyya, Special Secretary to the Government of West Bengal, Home (Political) Department. The Index Books shall not be taken back without the leave of the Commission.

E. COMPLIANCE WITH THE ABOVE ORDERS/DIRECTIONS

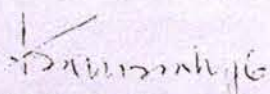
All informations to be furnished in terms of the above orders/directions must be supported by affidavits of competent officers, not below the rank of a Joint Secretary to the Government of India, and filed by September 26, 2000. All files/documents, in terms of the above orders/directions, must be produced also by the same date.

F. EXAMINATION OF WITNESSES

- (i) The Government of India is directed to produce its witnesses, if any, on the next date of hearing for their examination, before the Commission examines witnesses cited by other parties.
- (ii) Of the witnesses cited by the other parties, let the following witnesses be summoned to appear on the next date of hearing :
 1. Dr. Sisir Kumar Bose, Chairman, Netaji Research Bureau, Calcutta
 2. Shri Suman Chattopadhyay, Executive Editor, Ananda Bazar Patrika, Calcutta.
 3. Shri Ardhendu Sarkar, formerly of Bharat Heavy Engineering Corpn.
 4. Shri Anindya Sengupta, Columnist, The Statesman, Calcutta.
 5. Shri Nilanjan Basu, Reporter, Bartaman, Calcutta.
- (iii) As regards the other witnesses cited by them, appropriate directions as to who of them will be examined and when, will be notified in due course.

G. NEXT HEARING

The next hearing of the Commission will be held on September 28, 2000 at 11 A.M. in the Seminar Hall, Annexe Building, Mahajati Sadan, 166 Chittaranjan Avenue, Calcutta 700 007.


(M.K. Mukherjee)
Chairman.

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

No. Date

Proceedings dated 13.06.2000 (Second)

Held at the Seminar Hall Annexe Building, Mahajati Sadan,
166 Chittaranjan Avenue, Calcutta 700 007

June 13, 2000

The parties and/or their authorised representatives present today, were heard on the following matters in terms of the Notice dated May 19, 2000.

- a) Steps taken by different authorities to comply with the orders/directives passed by the Commission in its proceedings dated 23.03.2000 (vide copy of the proceedings enclosed) and further steps to be taken in this regard;
- b) Examination of the alleged ashes of Netaji Subhas Chandra Bose by a D.N.A. Expert in the context of the news item published in The Times of India (Calcutta) on 14.04.2000 based on the report of Dr. V.K. Kashyap, Deputy Director, Central Forensic Science Laboratory, Calcutta; and
- c) Recording of evidence including oral evidence.

Pursuant thereto, the following orders/observations are hereby made :

Re: (a) Since neither the Government of India nor the Government of West Bengal has properly complied with the various directions contained in the order dated March 23, 2000, both the Governments are given another opportunity to comply with the same by July 31, 2000. It is made abundantly clear that in case of failure to comply with the same by the aforesaid date, the Commission may be reluctantly compelled to invoke the provisions of Section 5(4) of the Commission of Inquiry Act, 1952 against the recalcitrant officers of the Government, both Central and State. It is also made clear that since the orders/directions passed in the proceedings by the Commission are in exercise of statutory - and not administrative - powers, no correspondence will henceforth be entertained relating to the compliance thereof. However, in respect of any matter relating to the compliance with the directions/orders of the Commission, the concerned Government may approach the Commission by making formal applications supported by affidavits before the Commission through competent officers, not below the rank of Joint Secretary to the Government of India.

Re: (b) Besides the parties and/or their representatives, Dr. Kashyap, Deputy Director, Central Forensic Science Laboratory, Calcutta was heard. The matter will be further discussed at the appropriate stage.

(5)

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

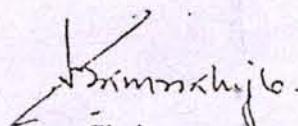
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Re: (c) The parties are directed to file a list of witnesses with their full particulars and addresses whom they would like to examine in support of their respective statements, and also indicate briefly the fact or facts which the witnesses are expected to prove in his/her examination and why instead of oral examination, his/her examination on affidavit will not suffice. The list should be filed within one month from the date of communication of this order.

Let this order be also communicated to the following Departments/Branches of the Government for strict compliance :

- 1) Ministry of Home Affairs, Govt. of India;
- 2) Ministry of External Affairs, Govt. of India;
- 3) Ministry of Defence, Government of India;
- 4) Cabinet Secretariat, Government of India;
- 5) Prime Minister's Office, Government of India;
- 6) Ministry of Human Resource & Development, Government of India; and
- 7) Home Department, Govt. of West Bengal, Writers' Bldgs., Calcutta.


Chairman.

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

No. Date

Proceeding dated 23rd March, 2000.

Present - Hon'ble Justice M.K. Mukherjee,
Chairman.

After examining the statements filed by the parties and after hearing them and/or their representatives regarding the modalities of the proceeding, the Commission makes the following Orders/Directions :-

(a) The Government of India shall produce before the Commission, within six weeks from the date of communication of these Orders/Directions, the following :-

(i) All files relating to Netaji Subhas Chandra Bose and/or I.N.A. in the Prime Minister's Secretariat including the following Secret files :-

1A, 2-A, 3-A, 6-A, 8-A, 12-A, 16-A (U.O. Note No. D/S-86 6, dated August 24, 1953, from P.M.'s Secretariat to Mohd. Yunus, MEA (SEA, BR), 17-A (U.O. Note No. D.3788-8EA/53, dated August 27, 1953, from Mohd. Yunus US, MEA (SEA) to P.M.'s Secretariat, 27-A, (Memo No. 2/53/1971/3/601 151) dated October 13, 1953, from Mohd. Yunus US, MEA (SEA) to P.M.'s Secretariat, 33-B (Letter No.20/62 (Accts.) dated April 82 (sic), 1954, from the Joint Secretary, I.N.A. (Enquiry and Relief Committee, 82, Daryaganj, Delhi to the President, 34 A (Rajya Sabha's Starred question No. 60 dated Sept. 28, 1954), 35-B (Note for Supplementaries) 37-A (Lok Sabha Starred Question No.334 dated August 2, 1955) 37-BCD (enclosures to S. No. 37-A) and Notes 11, 12, 13, 14, 15, 18, 19, 23, 24, 25, 26 and 29 File No. 23 (156)/ 51-P.M. (Indian National Army) (INA) in the Far East), 23 (11)-56-57 PM (INA Treasure), 12(226)/56 PM (Investigation into the circumstances leading to the death of Subhas Chandra Bose); 249 INA-GHQ Case Bose and Russia, 249-INA- II(H) GHQ Case on Subhas Chandra Bose, Headquarters main file 279/1 INA 10 Misc., Headquarters main file 273 INA (Misc. INA), Headquarters main file 273/INA, Headquarters Main file 273-INA, 138-INA and 265 INA; 10 Misc.,INA;

3
No. Date

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JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

(ii) File No.16/3/45-Poll. (i) containing Secret Report dated 19.09.45 by R. Tottenham, Secretary prepared for Home Department; file No.75/INA containing intelligence report prepared by Major Toye, Comd. S. Section CSDIC(i) dated 20.10.45; F. No. 8/18/46-Poll. (i) containing question No. 28 of Hon'ble Yuvaraj Dutta Singh in the Council of State and the answer given; file No.8/15/46-Poll. (i) relating to question No.14 dated 6.11.46 of Yuvaraj Dutta Singh; File No.8/2/47 - Poll. (i) relating to Yuvaraj Dutta Singh's questions placed in the list of business for the Council of State on 17.2.47;

(iii) Report bearing Secret No.1400/23/SE. CSDIC. Red Fort, Delhi dated 25th March, 1946; Netaji's letter to Jacob Malik, Soviet Ambassador, Tokyo dated 20.11.1944; Netaji's broadcast at 21.15 hrs. to 21.25 hrs., Special Message on 18.8.45; Confidential letter dated 23.5.46 from American Consulate Guard, Bombay dated 23.5.46 to the Secretary of State, Washington D.C.. A-175(a de-classified C.I.A. document ~~(original stated to be in the Archives of Princeton University)~~; a de-classified C.I.A. document dated 27.2.64 relating to a story concerning the possible return of one Subhas (Subas) Chandra Bose; API news agency's report attached to intelligence report for the Home Department dated 21.12.45; Secret No. 11/INC/45 dated 16.1.46 from the Dy. Inspector Genl. of Police, CIS, Bombay Province, Sivajinagar, Pune-5; Lt. Col. Anderson's confidential letter No.MS/5/5, CSDIC Red Fort Delhi dated 21.1.46 referring to a portion of Major Toye's report dt. 15.1.46; Daily INA Report No.56 dated 5.2.46 prepared by W.N.P. Jenkins, Dy. Director (C) of Intelligence Bureau (Home Dept.); W. Mckwright's letter No. C-5 dated 19.2.46 to Intelligence Bureau, H.D., New Delhi-3; Major Yong's Top Secret letter No.SL/9/CS/1 dated 1.8.46 to W.C.K. Wright; Pt. Nehru's letter to Mr. Atlee, the then Prime Minister of U.K. during 45 to 47 relating to Subhas Chandra Bose; Khurshed Naoroji's letter dt. 27.7.46 ~~(original stated to be in the Archives of Princeton University)~~ to Louis Fischer, secret correspondence between

contd...P.3.

Date

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

Mckwright and Major Young dt. April 8, 1946 relating to receipt of a letter by Pandit Jawaharlal Nehru from Subhas Ch. Bose regarding his stay in Russia; and correspondences between Louis Fischer and Gandhiji, Louis Fischer and Khurshed Naoroji, Louis Fischer and the President of USA, Louis Fischer and the Prime Minister of UK and other political leaders of U.K. in relation to Netaji and India's independence, Louis Fischer to Stalin;

(iv) The entire proceedings (including the evidence recorded) of Shaw Nawaz Committee and Khosla Commission ^{held} which had/earlier enquiries into the disappearance of Netaji Subhas Chandra Bose;

(v) The full texts of the Transfer of Power, Volumes VI & VII;

(b) Besides filing the above files/records/documents, the Government of India shall file Affidavits of competent persons of the related Ministries giving lists of all other files/records/documents, irrespective of whether they are Top Secret, Classified or De-classified, (except the 999 files transferred by the History Divn., Ministry of Defence to the National Archives, Delhi, a list of which has already been furnished to the Commission) lying in their respective custody or control relating to Netaji Subhas Chandra Bose and/or Indian National Army;

(c) The Government of West Bengal shall produce all the files relating to Netaji Subhas Chandra Bose now lying in the custody of the Special Branch, including file No.269/45 "Prisoner/Release-Revised Policy of Govt., for the release of security prisoners" containing Memo No.SS 129/SB dated 31st August, 1945 from the Commissioner of Police, Calcutta to H.S.E. Stevens, the then Chief Secretary, Govt. of Bengal, express letter No.1234 dated 25.8.45 of Bengal Govt. and Confidential Note dated 3.9.45 of D.R. Hardwick, D.I.G. I.B.;

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

2
No. Date

- (d) Since, from the statement filed on behalf of All India Forward Bloc it appears that Dr. (Mrs.) Purabi Roy of Asiatic Society has done along with some others an extensive research work in Russia including on Netaji Subhas Chandra Bose and has submitted their report to the Society, The Commission would like to have an affidavit filed by Mrs. Purabi Roy indicating the particulars of the documents which might have come to her notice in course of her research and considered by her to be relevant for the purpose of the enquiry by this Commission, as early as possible preferably within six weeks from the communication of these Orders/Directions.

The General Secretary of the said Society is also requested to forward to the Commission the aforesaid report along with its enclosures within the period prescribed as above.

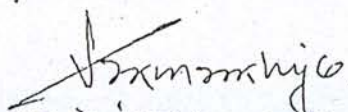
- (e) After the files are produced and/or particulars furnished by the Central Government in terms of the above orders/directions, a research team will be constituted to peruse those files and submit its report about the relevant contents thereof. The parties may suggest names of competent persons, preferably stationed in Delhi, who may be included in the team to be so constituted; and
- (f) Having regard to the facts that the evidence of Major G. Baskaran, who in his statement has claimed that he worked as Confidential Secretary of Netaji Subhas Chandra Bose at the material time, will be relevant for the enquiry and that he is aged 82 years, has lost his vision and is seriously ailing, immediate steps be taken to record his statement at his residence at No. 9, Royal Enclave, Basant Avenue, Chennai notwithstanding the fact that the evidence, if any, to be

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
To inquire into the alleged disappearance of
Netaji Subhas Chandra Bose

No. Date

produced by the Central Government is
yet to be recorded.

The Secretary of the Commission is directed
to take immediate steps for compliance with the
above Order/Directions.


(M.K. Mukherjee)
Chairman